

SETTLEMENT AGREEMENT
BETWEEN
MISSOURI REAL ESTATE COMMISSION
AND
CHARLES S. ISAAC

Charles S. Isaac (Isaac) and the Missouri Real Estate Commission (MREC) enter into this Settlement Agreement for the purpose of resolving the question of whether Isaac's license as a real estate salesperson, no. 2004034338, will be subject to discipline. Pursuant to § 536.060, RSMo 2000,¹ the parties hereto waive the right to a hearing by the Administrative Hearing Commission of the State of Missouri and, additionally, the right to a disciplinary hearing before the MREC under § 621.110, RSMo Supp. 2013. The MREC and Isaac jointly stipulate and agree that a final disposition of this matter may be effectuated as described below pursuant to § 621.045, RSMo Supp. 2013.

Isaac acknowledges that he understands the various rights and privileges afforded him by law, including the right to a hearing of the charges against him; the right to appear and be represented by legal counsel; the right to have all charges proven upon the record by competent and substantial evidence; the right to cross-examine any witnesses appearing

¹ All statutory citations are to the 2000 Revised Statutes of Missouri unless otherwise noted.

against him at the hearing; the right to present evidence on his behalf at the hearing; the right to a decision upon the record of the hearing by a fair and impartial administrative hearing commissioner concerning the charges pending against him; the right to a ruling on questions of law by the Administrative Hearing Commission; the right to a disciplinary hearing before the MREC at which time Isaac may present evidence in mitigation of discipline; the right to a claim for attorney fees and expenses; and the right to obtain judicial review of the decisions of the Administrative Hearing Commission and the MREC.

Being aware of these rights provided to him by law, Isaac knowingly and voluntarily waives each and every one of these rights and freely enters into this Settlement Agreement and agrees to abide by the terms of this document as they pertain to him.

Isaac acknowledges that he has received a copy of documents that were the basis upon which the MREC determined there was cause for discipline, along with citations to law and/or regulations the MREC believes were violated. Isaac stipulates that the factual allegations contained in this Settlement Agreement are true and stipulates with the MREC that Isaac's license as a real estate salesperson, license no. 2004034338, is subject to disciplinary action by the MREC in accordance with the relevant provisions

of Chapter 621, RSMo, and §§ 339.010 to 339.180 and §§ 339.710 to 339.855, RSMo, as amended.

The parties stipulate and agree that the disciplinary order agreed to by the MREC and Isaac in Part II herein is based only on the agreement set out in Part I herein. Isaac understands that the MREC may take further disciplinary action against him based on facts or conduct not specifically mentioned in this document that are either now known to the MREC or may be discovered.

I.

Joint Stipulation of Facts and Conclusions of Law

Based upon the foregoing, the MREC and Isaac herein jointly stipulate to the following:

1. Charles S. Isaac ("Isaac") is licensed as a real estate salesperson, license no. 2004034338. At all times relevant herein, Isaac's real estate license was current and active.

Applicable Law

2. Section 339.100.2, RSMo Supp. 2013, states in pertinent part:

The commission may cause a complaint to be filed with the administrative hearing commission as provided by the provisions of chapter 621 against any person or entity licensed under this chapter or any licensee who has failed to renew or has surrendered his or her individual or entity license for any one or any combination of the following acts:

(1) Failure to maintain and deposit in a special account, separate and apart from his or her personal or other business accounts, all moneys belonging to others entrusted to him or her while acting as a real estate broker or as the temporary custodian of the funds of others, until the transaction involved is consummated or terminated, unless all parties having an interest in the funds have agreed otherwise in writing;

(15) Violation of, or attempting to violate, directly or indirectly, or assisting or enabling any person to violate, any provision of sections 339.010 to 339.180 and sections 339.710 to 339.860*, or of any lawful rule adopted pursuant to sections 339.010 to 339.180 and sections 339.710 to 339.860*[,]

3. Section 339.105.1 and 3, RSMo Supp. 2013, state:

1. Each broker who holds funds belonging to another shall maintain such funds in a separate bank account in a financial institution which shall be designated an escrow or trust account. This requirement includes funds in which he or she may have some future interest or claim. Such funds shall be deposited promptly unless all parties having an interest in the funds have agreed otherwise in writing. No broker shall commingle his or her personal funds or other funds in this account with the exception that a broker may deposit and keep a sum not to exceed one thousand dollars in the account from his or her personal funds, which sum shall be specifically identified and deposited to cover service charges related to the account.

3. In conjunction with each escrow or trust account a broker shall maintain books, records, contracts and other necessary documents so that the adequacy of said account may be determined at any time. The

account and other records shall be provided to the commission and its duly authorized agents for inspection at all times during regular business hours at the broker's usual place of business.

4. Section 339.730.1, RSMo Supp. 2013 states:

A licensee representing a seller or landlord as a seller's agent or a landlord's agent shall be a limited agent with the following duties and obligations:

(1) To perform the terms of the written agreement made with the client[.]

5. Section 339.780.2 and .3, RSMO Supp. 2013 states in pertinent part:

2. Before engaging in any of the activities enumerated in section 339.010, a designated broker intending to establish a limited agency relationship with a seller or landlord shall enter into a written agency agreement with the party to be represented. The agreement shall include a licensee's duties and responsibilities specified in section 339.730 and the terms of compensation and shall specify whether an offer of subagency may be made to any other designated broker.

3. Before or while engaging in any acts enumerated in section 339.010, except ministerial acts defined in section 339.710, a designated broker acting as a single agent for a buyer or tenant shall enter into a written agency agreement with the buyer or tenant. The agreement shall include a licensee's duties and responsibilities specified in section 339.740 and the terms of compensation.

6. State Regulation 20 CSR 2250-8.120(4), effective August 28, 2006, states:

Each broker shall deposit into the escrow or trust account all funds coming into the broker's possession as set out in section 339.100.2(1), RSMo, including funds in which the broker may have some future interest or claim and including, but not limited to, earnest money deposits, prepaid rents, security deposits, loan proceeds and funds paid by or for the parties upon closing of the transaction. No broker shall commingle personal funds or other funds in the broker's escrow account except to the extent provided by section 339.105.1, RSMo. Commissions payable must be removed from the escrow account at the time the transaction is completed. After the transaction is completed, interest payable shall be disbursed to the appropriate party(ies) from the escrow account no later than ten (10) banking days following the receipt of the next statement of the escrow account. When the licensee receives all interest earned, interest payable to a licensee must be removed from the escrow account within ten (10) banking days following the receipt of the next statement of the escrow account.

7. State Regulation 20 CSR 2250-8.200(1) states:

(1) When managing property a licensee shall not rent or lease, offer to rent or lease, negotiate, or offer or agree to negotiate, the rent or lease, list or offer to list for lease or rent, assist or direct in procuring of prospects calculated to result in the lease or rent, assist or direct in the negotiation of any transaction calculated or intended to result in the lease or rent, or show that property to prospective renters or lessees unless the licensee's broker holds a current written property management agreement or other written authorization signed by the owner of the real estate or the owner's authorized agent.

8. State Regulation 20 CSR 2250-8.220(3) states:

All money received by a broker in connection with any property management must be deposited within ten (10) banking days to the escrow or trust account maintained by the broker.

The First Audit

9. On or about March 14, 2012, the MREC conducted an audit of Isaac's real estate activity from March 2011 through March 14, 2012. The random audit revealed a number of problems, which are detailed in the following paragraphs.

10. Isaac failed to deposit rent into the property management escrow account, Acct. no. xxxxxxxx3804 on at least twenty-one occasions, in violation of §§ 339.100.2(1) and 339.105.1, RSMo, and State Regulations 20 CSR 2250-8.120(4), effective August 28, 2006, and 20 CSR 2250-8.220(3).

11. Isaac commingled personal funds with the property management escrow account, Acct. no. xxxxxxxx3804, on numerous occasions including, but not limited to:

- a. Making deposits totaling \$5,442.50 into the property management escrow account from their personal bank account and operating account in March 2011;
- b. Using funds from the property management escrow account to pay personal expenses; and

- c. Withdrawing funds from the property management escrow account via ATM.

12. Having commingled personal funds with the property management escrow account and having used funds from the escrow account for personal expenses, Isaac violated Section 339.105.1, RSMo Supp. 2013.

13. Isaac managed property without a written management agreement on one occasion, in violation of Section 339.780.2, RSMo Supp. 2013, and State Regulation 20 CSR 2250-8.200(1).

14. Isaac acted as a buyer's agent without obtaining a written agency agreement with the buyer in at least four instances, which violated Section 339.780.3, RSMo Supp. 2013.

15. As described herein, Isaac's failure to maintain the property management escrow account is cause to discipline his license under Section 339.100.2(1), RSMo Supp. 2013.

16. As described herein, Isaac's conduct which resulted in violations of Missouri Statutes and Regulations, to wit Sections 339.100.2(1), 339.105.1, and 339.780.2 & .3 and 20 CSR 2250-8.120(4), 20 CSR 2250-8.200(1), and 20 CSR 2250-8.220(3), provides cause to discipline Isaac's license under Section 339.100.2(15), RSMo Supp. 2013.

The Second Audit

17. On or about August 21, 22, and 27, 2013, the MREC conducted a re-audit of the real estate activity by Isaac. The re-audit revealed a number of problems, which are detailed in the following paragraphs.

18. Isaac failed to deposit rent into the property management escrow account, Acct. no. xxxxxxxx3804 on at least two occasions, in violation of §§ 339.100.2(1) and 339.105.1, RSMo, and State Regulations 20 CSR 2250-8.120(4), effective August 28, 2006, and 20 CSR 2250-8.220(3), as follows:

- a. Isaac failed to deposit funds in the escrow account when he applied a cash rental payment of \$500.00 to an invoice on January 11, 2013 instead of depositing the rental payment into the property management account; and
- b. A rent check for the month of March 2013 was deposited into the brokerage operating account.

19. Isaac engaged in commingling of escrow funds with personal or business funds, in violation of § 339.105.1, RSMo, as follows:

- a. Isaac transferred \$200.00 to the brokerage operating account on May 3, 2013 in order to purchase a \$200.00 gift card to reimburse a tenant for repairs;

- b. Isaac deposited a rent check for the month of March 2013 into the brokerage operating account; and
- c. Isaac used the property management escrow account to pay approximately \$225.93 in personal expenses.

20. Isaac did not maintain records necessary to determine the adequacy of the property management escrow account in the following instances:

- a. The December 2012 owner statement for the Tholozan property showed two deposits of a \$500.00 rental payment made on December 3, 2012 and December 11, 2012, but Isaac could not explain why the December 2012 bank statement only shows one \$500.00 deposit on December 11, 2012;
- b. A \$525.00 charge shown on the Mackenzie owner statement for January 2013 was not reflected on either the December 2012 or January 2013 bank statement;
- c. Three deposits shown on the December 2012 bank statement and one deposit shown on the April 2013 bank statement are not reflected on the respective owner

statements and Isaac was unable to explain the deposits and their origins;

- d. The checkbook register was incomplete and was missing months of transactions; and
- e. A deposit made on February 8, 2013 for a cash rental payment that was not reflected on the respective owner statement.

21. Isaac's failure to maintain the records necessary to determine the adequacy of the property management escrow account violates § 339.105.3, RSMo Supp. 2013.

22. Isaac failed to perform the terms of the written management agreement by failing to remove management fees on a monthly basis on three occasions, in violation of § 339.730.1, RSMo Supp. 2013.

23. Nineteen bank transfers were made without the related transaction detail, in violation of State Regulation 20 CSR 2250-8.220(8).

24. As described herein, Isaac's failure to maintain the property management escrow account is cause to discipline his license under § 339.100.2(1), RSMo Supp. 2013.

25. As described herein, Isaac's conduct, which resulted in violations of Missouri Statutes and Regulations, to wit § 339.100.2(1), 339.105.1 & .3,

and 339.730.1 and 20 CSR 2250-8.120(4) and 20 CSR 2250-8.220(3) & (8), provides cause to discipline Isaac's license under § 339.100.2(15), RSMo Supp. 2013.

II. Joint Agreed Disciplinary Order

Based on the foregoing, the parties mutually agree and stipulate that the following shall constitute the disciplinary order entered by the MREC in this matter under the authority of § 536.060, RSMo, and §§ 621.045.4 and 621.110, RSMo Supp. 2013.

26. **Isaac's license is on probation.** Isaac's license as a real estate salesperson is hereby placed on PROBATION for a period of FIVE YEARS. The period of probation shall constitute the "disciplinary period." During the disciplinary period, Isaac shall be entitled to practice as a real estate salesperson under §§ 339.010 to 339.180 and §§ 339.710 to 339.855, RSMo, as amended, provided Isaac adheres to all the terms of this agreement.

27. **Terms and conditions of the disciplinary period.** The terms and conditions of the disciplinary period are as follows:

A. Isaac shall not engage in the practice of managing real estate for others.

B. Isaac shall not direct, maintain, or have signature authority over any escrow accounts held by a broker and/or brokerage.

C. Isaac shall keep the MREC apprised at all times of his current address and telephone number at each place of residence and business. Isaac shall notify the MREC in writing within ten (10) days of any change in this information.

D. Isaac shall timely renew his real estate license(s), timely pay all fees required for license renewal and shall comply with all other requirements necessary to maintain his license(s) in a current and active status. During the disciplinary period, Isaac shall not place his real estate license(s) on inactive status as would otherwise be allowed under 20 CSR 2250-4.050. Alternatively, without violating the terms and conditions of this Settlement Agreement, Isaac may surrender his real estate license(s) by submitting a letter to the MREC and complying with 20 CSR 2250-8.155. If Isaac applies for a real estate license after surrender, Isaac shall be required to requalify as if an original applicant and the MREC will not be precluded from basing its decision, wholly or partially, on the findings of fact, conclusions of law, and discipline set forth in this Settlement Agreement.

E. Isaac shall meet in person with the MREC or its representative at any such time or place as required by the MREC or its designee upon notification from the MREC or its designee. Said

meetings will be at the MREC's discretion and may occur periodically during the probation period.

F. Isaac shall immediately submit documents showing compliance with the requirements of this Settlement Agreement to the MREC when requested by the MREC or its designee.

G. During the probationary period, Isaac shall accept and comply with unannounced visits from the MREC's representative to monitor compliance with the terms and conditions of this Settlement Agreement.

H. Isaac shall comply with all relevant provisions of Chapter 339, RSMo, as amended, all rules and regulations duly promulgated thereunder, all local, state, and federal laws. "State" as used herein includes the State of Missouri and all other states and territories of the United States. Any cause to discipline Isaac's license as a real estate salesperson under § 339.100.2, RSMo, as amended, that accrues during the disciplinary period shall also constitute a violation of this Settlement Agreement.

I. Isaac shall report to the MREC each occurrence of Isaac being finally adjudicated and found guilty, or entering a plea of guilty or nolo contendere, in a state or federal criminal prosecution, to felony

or misdemeanor offenses, within ten business days of each such occurrence.

J. Broker Acknowledgement. If at any time during the disciplinary period Isaac wishes to transfer his license affiliation to a new broker/brokerage, he must submit a Broker Acknowledgment form signed by the new broker. This acknowledgement is in addition to any other required application, fee, and documentation necessary to transfer his license. Isaac must obtain the Broker Acknowledgement form from the MREC.

28. Upon the expiration of the disciplinary period, the license of Isaac shall be fully restored if all requirements of law have been satisfied; provided, however, that in the event the MREC determines that Isaac has violated any term or condition of this Settlement Agreement, the MREC may, in its discretion, after an evidentiary hearing, vacate and set aside the discipline imposed herein and may suspend, revoke or otherwise lawfully discipline Isaac's license.

29. No additional discipline shall be imposed by the MREC pursuant to the preceding paragraph of this Settlement Agreement without notice and opportunity for hearing before the MREC as a contested case in accordance with the provisions of Chapter 536, RSMo.

30. This Settlement Agreement does not bind the MREC or restrict the remedies available to it concerning any future violations by Isaac of §§ 339.010 to 339.180 and §§ 339.710 to 339.855, RSMo, as amended, or the regulations promulgated thereunder, or of the terms and conditions of this Settlement Agreement.

31. This Settlement Agreement does not bind the MREC or restrict the remedies available to it concerning facts or conduct not specifically mentioned in this Settlement Agreement that are either now known to the MREC or may be discovered.

32. If any alleged violation of this Settlement Agreement occurred during the disciplinary period, the parties agree that the MREC may choose to conduct a hearing before it either during the disciplinary period, or as soon thereafter as a hearing can be held, to determine whether a violation occurred and, if so, may impose further disciplinary action. Isaac agrees and stipulates that the MREC has continuing jurisdiction to hold a hearing to determine if a violation of this Settlement Agreement has occurred.

33. Each party agrees to pay all their own fees and expenses incurred as a result of this case, its litigation, and/or its settlement.

34. The terms of this Settlement Agreement are contractual, legally enforceable, and binding, not merely recital. Except as otherwise contained

herein, neither this Settlement Agreement nor any of its provisions may be changed, waived, discharged, or terminated, except by an instrument in writing signed by the party against whom the enforcement of the change, waiver, discharge, or termination is sought.

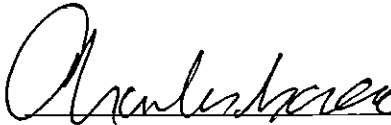
35. The parties to this Settlement Agreement understand that the MREC will maintain this Settlement Agreement as an open record of the MREC as required by Chapters 324, 339, and 610, RSMo, as amended.

36. Isaac, together with his partners, heirs, assigns, agents, employees, representatives and attorneys, does hereby waive, release, acquit and forever discharge the MREC, its respective members, employees, agents and attorneys including former members, employees, agents and attorneys, of, or from any liability, claim, actions, causes of action, fees, costs, expenses and compensation, including, but not limited to, any claim for attorney's fees and expenses, whether or not now known or contemplated, including, but not limited to, any claims pursuant to § 536.087, RSMo, as amended, or any claim arising under 42 U.S.C. § 1983, which now or in the future may be based upon, arise out of, or relate to any of the matters raised in this case or its litigation or from the negotiation or execution of this Settlement Agreement. The parties acknowledge that this paragraph is severable from the remaining portions of the Settlement Agreement in that it survives in


perpetuity even in the event that any court or administrative tribunal deems this agreement or any portion thereof void or unenforceable.

37. This Settlement Agreement goes into effect 15 days after the document is signed by the Executive Director of the MREC.

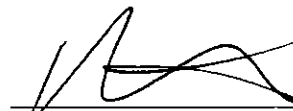
LICENSEE


Charles S. Isaac
3/18/16
Date

MISSOURI REAL ESTATE
COMMISSION


Joseph Denkler, Executive
Director

LUTFIYYA LAW FIRM, LLC

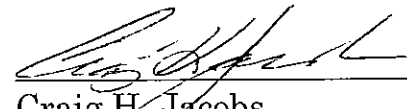

Rob A. Lutfiyya
Attorney at Law
Missouri Bar No. 53211

1750 S. Brentwood Blvd., Suite 295
Brentwood, MO 63144
Telephone: (314) 727-0702
Facsimile: (314) 395-1113
Email: RobL@MetroSTLLaw.com

Attorney for Charles S. Isaac

Date: 3/28/16

CHRIS KOSTER
Attorney General


Craig H. Jacobs
Assistant Attorney General
Missouri Bar No. 48358

Supreme Court Building
207 West High Street
P.O. Box 899
Jefferson City, MO 65102
Telephone: 573-751-1143
Telefax: 573-751-5660
Email: craig.jacobs@ago.mo.gov

Attorneys for the MREC